

*The Commonwealth of Massachusetts*  
*Committee for Public Counsel Services*  
*44 Bromfield Street, Boston, MA 02108*

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May 24, 2004

WRITER'S DIRECT DIAL NUMBER

Honorable Francis X. Spina  
Associate Justice  
Supreme Judicial Court  
One Beacon Street, 3rd Floor  
Boston, MA 02108-3106

Re: LAVALLEE, et al. v. THE JUSTICES OF THE SPRINGFIELD DISTRICT COURT  
No. SJ-2004-0198

Dear Justice Spina:

This letter is to inform the Court of a development with respect to the PETITIONERS' FURTHER STATUS REPORT AND MOTION TO AMEND PETITION TO NAME ADDITIONAL PETITIONERS AND RESPONDENTS, which my office filed in the above-entitled litigation on May 21, 2004. Late in the afternoon of May 21, my office received a facsimile message from our Springfield public defender office forwarding a copy of an ORDER OF NOTICE TO SHOW CAUSE RE: CIVIL CONTEMPT OF COURT, which order was dated May 21, 2004. The order is addressed to fifteen named individuals "as they constitute the Committee for Public Counsel Services," and is signed by an Associate Justice of the Superior Court (Sweeney, J.).

The order of notice to show cause, a copy of which is appended hereto, directs each of the fifteen Committee members "to appear before the Superior Court, sitting in Hampden County, on Wednesday, June 2, 2004 at 10:00 a.m. to show cause why you should not be held in civil contempt of court for failure to comply with the Court's order of May 14, 2004 requiring the Committee for Public Counsel Services to assign counsel to represent the defendant James Yates in [HDCR-2004-00472]."

The Yates case referenced in Judge Sweeney's order to show cause is the same case described at paragraphs one through twelve of the affidavit submitted in support of Petitioners' Further Status Report and Motion to Amend in the above-entitled action, filed on May 21.

Very truly yours,

William J. Leahy  
Chief Counsel

cc: Ronald F. Kehoe, Assistant Attorney General

**COMMONWEALTH OF MASSACHUSETTS**

**HAMPDEN, ss.**

**SUPERIOR COURT  
CRIMINAL CASE  
NO. 04-472**

**COMMONWEALTH**

**vs.**

**JAMES YATES**

**HAMPDEN COUNTY  
SUPERIOR COURT  
FILED**

**MAY 21 2004**

*David Shaggy*  
**CLERK-MAGISTRATE**

**ORDER OF NOTICE TO SHOW CAUSE RE: CIVIL CONTEMPT OF COURT**

To the following individuals, as they constitute the Committee for Public Counsel Services:

**COMMITTEE MEMBERS**

**Eileen D. Agnes, Esquire**  
94 Lincoln Street  
Framingham, MA 01702-6354

**Peter J. Muse, Esquire**  
15 Foster Street  
Quincy, MA 02169-5307

**Victoria M. Bonilla, Esquire**  
**Bourbeau & Bonilla**  
21 Union Street  
Boston, MA 02108-2406

**John T. Ouderkirk, Jr., Esquire**  
490 Shrewsbury Street, Suite C  
Worcester, MA 01604-1607

**Ann V. Crowley, Esquire**  
P. O. Box 130  
Prides Crossing, MA 01965-0130

**Honorable Robert H. Quinn**  
**Quinn & Morris**  
141 Tremont Street  
Boston, MA 02111-1209

**Willie J. Davis, Esquire**  
**(CHAIRMAN)**  
**Davis, Robinson & White, LLP**  
One Faneuil Hall Marketplace  
South Market Building  
Boston, MA 02109

**Charles W. Rankin, Esquire**  
**Rankin & Sultan**  
One Commerical Wharf North  
Boston, MA 02110-3703

**Derege B. Demissie, Esquire**  
**Doherty & Demissie**  
929 Massachusetts Avenue, Suite 01  
Cambridge, MA 02139-4052

**Robin L. Stolk, Attorney-in-Charge**  
**Children and Family Law Program**  
**Committee for Public Counsel Services**  
1145 Main Street, #420  
Springfield, MA 01103-2123

**Judith A. Egan, Esquire**  
35 Chestnut Street  
Wakefield, MA 01880-3601

**Dorothy Meyer Storrow, Esquire**  
**(SECRETARY)**  
15 Franklin Street, P.O. Box 202  
Greenfield, MA 01302-0202

**Matthew H. Feinberg, Esquire**  
**(VICE-CHAIRMAN)**  
**Feinberg & Kamholtz**  
125 Summer Street  
Boston, MA 02110-1616

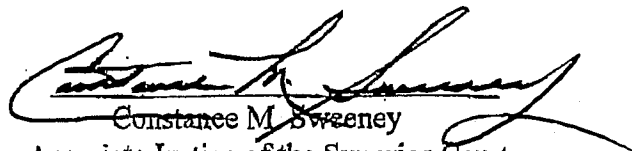
**Honorable W. Paul White**  
**The Karol Group, Inc.**  
99 Summer Street, Suite 1030  
Boston, MA 02110-1269

**Judith L. Lindahl, Esquire**  
24 School Street  
Boston, MA 02108

You are hereby notified to appear before the Superior Court, sitting in Hampden County, on Wednesday, June 2, 2004 at 10:00 a.m. to show cause why you should not be held in civil contempt of court for failure to comply with the Court's order of May 14, 2004 requiring the Committee for Public Counsel Services to assign counsel to represent the defendant James Yates in the above-captioned case. A copy of that order, which was previously served upon you, is attached hereto.

The contempt hearing will take place at:  
Hampden County Superior Court  
Courtroom No. 6 - Third Floor  
Hall of Justice  
50 State Street  
Springfield, Massachusetts.

Dated: May 21, 2004

  
Constance M. Sweeney  
Associate Justice of the Superior Court

Notice to the Clerk: Service is to be made upon the above-listed committee members by in hand service or by leaving at the addresses of the committee members. Additionally, a copy of this notice is to be sent by first class mail and electronic facsimile to the Committee for Public Counsel Services, 44 Bromfield Street, Boston, MA. 02108. A copy shall also be sent to the defendant James Yates at his last and usual place of address. Mr. Yates should be present for the hearing.

COMMONWEALTH OF MASSACHUSETTS

Hampden, ss

Superior Court  
Criminal Case No. 04-472

HAMPDEN COUNTY  
SUPERIOR COURT  
**FILED**

MAY 14 2004

COMMONWEALTH

vs.

James Yates

*Marie Elmaggi*  
CLERK-MAGISTRATE

MEMORANDUM OF PROCEEDINGS AND ORDER TO ASSIGN COUNSEL

For the reasons stated herein, the Committee for Public Counsel Services (C.P.C.S.) shall forthwith assign counsel to represent the defendant James Yates in the above-captioned criminal case.<sup>1</sup>

On May 14, 2004 the defendant came before the court for Arraignment on Indictment No. 04-472, charging him with:

Count 1 - Unlawful possession of a controlled substance with intent to distribute (Class B - Cocaine) 94C-32A(c)

Count 2 - violation of controlled substance law school or park zone 94C-32J

The court attempted to assign counsel to represent the defendant (Supreme Judicial Court Rule 3:10, § 5 and Superior Court Rule 53).

An attorney in the Springfield Trial Office of C.P.C.S. represents a co-defendant. When the arraignment was called in the First Session this morning there were nine private attorneys approved by C.P.C.S. for private sector appointment present in the courtroom. None of them would accept an appointment as counsel for the defendant. As a result of the private sector attorneys' refusal to accept appointment, the defendant is unrepresented. I continued his Arraignment until May 20, 2004.

All of the legal criteria for appointment of counsel are met in this case. The defendant is indigent. He is charged with crimes punishable by imprisonment. He has not retained counsel nor has he elected to proceed pro se. The laws of the Commonwealth require C.P.C.S. to assign counsel

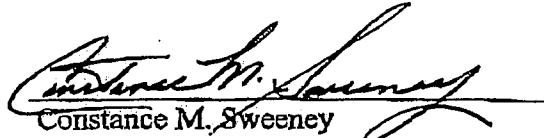
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According to the C.P.C.S. website, the current committee members are Willie J. Davis (Chairman), Eileen D. Agnes, Victoria M. Bonilla, Ann V. Crowley, Derege B. Demissie, Judith A. Egan, Matthew H. Feinberg, Judith L. Lindahl, Peter J. Muse, John T. Ouderkirk, Jr., Robert H. Quinn, Charles W. Rankin, Robin L. Stolk, Dorothy Meyer Storrow, and W. Paul White. Chief legal counsel is William J. Leahy.

under these circumstances.<sup>2</sup> They must do so.

Therefore, it is **ORDERED** that the Committee for Public Counsel shall forthwith assign counsel to represent the defendant and that such counsel appear before the court on, May 20, 2004. The clerk's office shall give notice of this order by electronic facsimile and first class mail addressed to the each committee member and their chief counsel (see fn. 1) at the Committee for Public Counsel Services, 44 Bromfield Street, Boston, MA., 02108. A copy of this order shall be sent to the defendant at his last and usual place of address/ or at the following facility if applicable Hampden County House of Correction. The clerk shall provide the District Attorney with a copy of this order.

Dated: May 14, 2004

  
Constance M. Sweeney  
Associate Justice of the Superior Court